



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2020-0132; FRL-10011-52-Region 1]

Air Plan Approval and Air Quality Designation; Connecticut; Determination of Clean Data for the 2008 8-Hour Ozone Standard for the Greater Connecticut Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a clean data determination for the Greater Connecticut Serious 8-hour ozone nonattainment area, concluding that the area has monitored attainment of the 2008 8-hour National Ambient Air Quality Standard (NAAQS) for ozone, based upon certified 2016-2018 ozone data. This action suspends the requirements for this area to submit an attainment demonstration, a reasonable further progress plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 2008 8-hour ozone NAAQS on the condition that the area continues to attain the 2008 8-hour ozone NAAQS. This action is being taken in accordance with the Clean Air Act.

DATES: This final action is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2020-0132. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov> or at the U.S.

Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square - Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

FOR FURTHER INFORMATION CONTACT: Elizabeth Townsend, Air Quality Branch, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square – Suite 100, (Mail code 05-2), Boston, MA 02109-3912, tel. (617) 918-1614, email townsend.elizabeth@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background and Purpose

On March 27, 2020 (85 FR 17301), EPA published a notice of proposed rulemaking (NPRM) for the State of Connecticut. The NPRM proposed to determine that the Greater Connecticut Serious 8-hour ozone nonattainment area has attained the 2008 8-hour NAAQS for ozone, based on 2016-2018 ozone data. Since the NPRM was published, EPA has finalized and published the design values for 2019, based on 2017-2019 ozone data. These data support the conclusion that the Greater Connecticut area attains the 2008 8-hour NAAQS for ozone.

On April 20, 2020 (85 FR 21796), EPA published a correction to the proposed rule which corrected information, displayed in Table 1, of the 2016 fourth-high 8-hour ozone average concentration values for the Abington, Cornwall, and East Hartford monitors. Although incorrect

values were displayed in the original version of the proposed rule, the correct values were utilized in the calculation of the design values and in the analysis for the clean data determination and therefore did not change our analysis or conclusions. EPA proposed to determine that the obligation for Connecticut to make submissions to meet certain CAA requirements related to attainment of the NAAQS for this area is not applicable for as long as the area continues to attain the NAAQS. The rationale for EPA's proposed action is explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

II. Final Action

For the reasons stated in the proposed action, EPA is finalizing a clean data determination for the Greater Connecticut Serious 8-hour ozone nonattainment area based on the area's current attainment of the 2008 8-hour ozone standard. Pursuant to 40 CFR 51.1118, this action suspends the requirements for this area to submit State Implementation Plan (SIP) revisions related to attainment of the 2008 8-hour ozone NAAQS on the condition that the area continues to attain the 2008 8-hour ozone NAAQS. In particular, as discussed in the proposed action (85 FR 17301), the obligation for Connecticut to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures for failure to attain or make reasonable progress and other planning SIPs related to attainment of the 2008 ozone NAAQS shall be suspended until such time as: (1) The area is redesignated to attainment for the 2008 8-hour ozone NAAQS, at which time the requirements no longer apply; or (2) EPA determines that the area has violated the 2008 8-hour ozone NAAQS, at which time the area is again required to submit such plans.

III. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40

CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the action does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final action does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial

review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: June 22, 2020.

Dennis Deziel,
Regional Administrator,
EPA Region 1.

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